

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BRAVO PIZZA ENTERPRISES, INC.,

Plaintiff,

v.

YOSSEF AZIZO and KOSHER BRAVO
PIZZA L.L.C.,

Defendants.

TEMPORARY RESTRAINING ORDER

23-CV-04540 (HG)

HECTOR GONZALEZ, United States District Judge:

Plaintiff previously moved for a preliminary injunction prohibiting Defendants from using Plaintiff's registered trademarks related to the name "Bravo Pizza" and "Bravo Kosher Pizza," along with an unregistered logo that Plaintiff uses in connection with those registered trademarks (collectively, the "Trademarks"). ECF No. 10. Defendants opposed that motion. ECF Nos. 17–19. After a conference held on August 3, 2023, in which the parties and the Court attempted to reach a consensual resolution of the issues raised in Plaintiff's motion, Plaintiff filed a letter requesting that the Court "enter an order immediately enjoining Defendants from any further use of [Plaintiff's] marks" based on newly-discovered facts suggesting that statements made during the conference by Defendants' counsel about Defendants' continued use of the Trademarks had been inaccurate. ECF No. 23 at 2. The Court held a telephone conference on August 4, 2023, and permitted Defendants to file a response that attempted to explain whether they had stopped using the Trademarks. ECF No. 24.

Based on the submissions described above, including Plaintiff's request for immediate injunctive relief, the Court finds that entering a temporary restraining order pursuant to Rule 65(b) is warranted. Plaintiff has established a likelihood of succeeding on the merits of, at

minimum, its claims for trademark infringement under the Lanham Act, along with its claim for breach of a written license agreement between Plaintiff and Defendant Azizo because: (i) Plaintiff has presented the Court with a letter terminating the parties' license agreement, which appears to comply with the terms of the parties' agreement, *see* ECF No. 10-2 at 17–25; (ii) Defendants have admitted that they continue to use Plaintiff's Trademarks at their pizza store located at 902 Kings Highway, Brooklyn, New York (the "Brooklyn Pizza Store"), *see* ECF No. 19 ¶¶ 9–12; and (iii) the pictures submitted by Plaintiff in connection with its request for immediate injunctive relief, along with the response by Defendants, indicate that Defendants were using Plaintiff's Trademarks as recently as last week at Defendants' separate pizza store in Woodridge, New York, *see* ECF Nos. 23 & 24. Since Plaintiff has demonstrated a likelihood of success on the merits for at least some of its trademark-related claims, Plaintiff is "entitled to a rebuttable presumption of irreparable harm" pursuant to the Trademark Modernization Act of 2020. *Guru Teg Holding, Inc. v. Maharaja Farmers Market, Inc.*, No. 22-cv-1375, 2022 WL 3045038, at *3–4 (E.D.N.Y. Aug. 2, 2022) (citing 15 U.S.C. § 1116(a)) (granting preliminary injunction because defendant had failed to rebut presumption of irreparable harm); *Hope Organics LLC v. Preggo Leggings LLC*, No. 21-cv-2416, 2021 WL 5919367, at *12 (S.D.N.Y. Dec. 15, 2021) (granting preliminary injunction for same reason). Defendants have failed to rebut the statutory presumption of irreparable harm.

The Court therefore ORDERS that Defendants:

- i. Shall cease using Plaintiff's Trademarks on any outdoor signage or website associated with Defendants' Brooklyn Pizza Store no later than 11:59pm Eastern time on August 17, 2023;
- ii. Shall make all reasonable efforts to remove, or block from customers' view, all other use of Plaintiff's Trademarks at the Brooklyn Pizza Store no later than 11:59pm Eastern time on August 17, 2023; and

iii. Shall not intentionally use Plaintiff's Trademarks, within the view of Defendants' customers, at any other location at which Defendants do business, including but not limited to Defendants' pizza store in Woodridge, New York and Defendants' bagel store located at 904 Kings Highway, Brooklyn, New York.

Defendants shall file a letter no longer than five pages on or before August 18, 2023, describing their efforts to comply with this order and shall include with that letter photographs that attempt to demonstrate Defendants' compliance with the order. This temporary restraining order shall expire at 12:00pm Eastern time on August 22, 2023, unless extended by a subsequent order of the Court.

SO ORDERED.

/s/ Hector Gonzalez
HECTOR GONZALEZ
United States District Judge

Dated: Brooklyn, New York
August 8, 2023, 7:00pm